



Making a positive difference
for energy consumers

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Response to the CMA's provisional decision on remedies

Having referred the energy market to the CMA in 2014, we welcome your provisional decision on remedies and the comprehensive investigation underpinning your provisional findings on adverse effects on competition (AEC).

The remedies will promote competition and improve outcomes for consumers, including those who are vulnerable. They signal an overhaul of the industry's governance and processes, and will support the transition to a 'smart' market with disruptive competition and engaged consumers.

In particular, we are pleased to see:

- a recognition of the role principles can play in protecting consumers from confusing tariffs, while allowing for innovation;
- remedies to improve the governance of the industry, including proposals to reform industry code governance;
- remedies aimed at revising industry processes to support competition and innovation, including a recommendation on half-hourly settlement;
- remedies such as the proposed database, which focus on improving competition via making data available, including to price comparison websites (PCWs) in some cases;
- a targeted and transitional price cap to protect prepayment customers during the smart meter roll-out;
- a requirement on suppliers to carry out randomised controlled trials to make prompts more effective, including to trial a market-wide cheapest tariff message for domestic customers; and

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- measures to address the specific barriers that microbusiness customers and those on restricted meters face in engaging in the market.

We envisage a very significant implementation role for Ofgem in relation to many of the remedies and several (such as trialling) will become part of our enduring scope of work. We are ready to act on your recommendations and implement the package of remedies as quickly and effectively as possible.

Initial thoughts on remedy implementation

We are developing a detailed plan to implement the remedies you propose and we are committed to working closely with you as the package is finalised. The annexes to this letter contain our initial thoughts and complement the working level discussions we have started to have, for example on the detailed design of the safeguard tariff.

We have highlighted areas where we think that adjustments to your proposed approach could better address the AEC. For example, taking into account the statutory timescales and the number of parties involved, we consider that where remedies propose that the CMA could seek undertakings, it would be more appropriate and effective for the CMA to use its order-making powers (including, where applicable, for the modification of licence conditions).

We see opportunities to partner with other organisations, to bring the widest experience, expertise and resources to bear. For example, bodies such as Citizens Advice and the Behavioural Insights Team could provide a particular contribution to the work on randomised controlled trials. We think that it could be beneficial for the CMA to recognise such opportunities in its final report.

We consider that all suppliers should have certainty and consistent information about our programme of work. We will publish a plan for implementing the remedies that fall to us in the summer, and update our Forward Work Programme to reflect the impact this has on our other work.

We intend to take opportunities to accelerate a number of the remedies, subject to proper process within our statutory duties. These include removing RMR 'simpler choices' rules and exploring detail around the licensing of code administrators and central system providers. We intend to remove the RMR 'simpler choices' rules promptly, with a consultation on this shortly after the CMA's final report. We will accompany this with our views on up to two new principles.

There are also areas which we think need investigating further before remedies are implemented. For instance, we would propose to trial the database for disengaged customers before rolling it out fully. This would allow data protection questions to be fully addressed, additional protections for communications with customers to be explored, and would allow us to understand the effectiveness of different approaches to engage sticky customers. This is another area where we are keen to draw on the experience of consumer bodies.

Concluding remarks

We believe your package of remedies provides a coherent and comprehensive route to addressing the AECs that you have identified. We note the implementation challenges, the need for transparency of our plans and consideration of the impact on market participants. We recognise that the package of remedies will not be finalised until June¹ but are keen to work with you before then to achieve successful implementation of the remedies and bring benefits to consumers as soon as possible.

Yours faithfully,

Rachel Fletcher
Senior Partner, Consumers & Competition

¹ Ofgem recognises that the CMA's findings on adverse effects on competition and proposed remedies are provisional in nature and therefore subject to due process and relevant considerations leading up to the publication of the CMA's final report. However, on the basis of the information published by the CMA to date, we consider that the evidence would support confirmation of these findings and, subject to comments we have, proposed remedies. We have therefore written our response on the assumption that steps leading to the implementation of remedies will be taken.

Annexes

Please note that we are only responding in detail on certain remedies, in respect to the AECs which are listed below.

Across the remedies package, we reiterate that we welcome your provisional decisions and look forward to working closely with you to ensure their effective implementation. We intend to develop detailed plans prior to your final decision and look to continue our ongoing dialogue.

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Annex 1: Gas Settlement AEC

Project Nexus

We welcome the recognition that the enhanced functionality and capacity of Project Nexus systems will address most of the current inefficiencies in the gas settlement arrangements and that those systems must be augmented with robust rules where appropriate.

In order to increase the prospects of the programme being delivered successfully, we have recently taken over sponsorship of the programme, and extended the role of PricewaterhouseCoopers (PwC) to provide end-to-end programme assurance and project management support.²

A successful outcome of this programme is for the new systems to be implemented in a manner which does not expose consumers to risk (for example, ensuring the new systems do not prevent consumers from switching supplier). Whilst we remain committed to doing everything reasonable to achieve the 1 October 2016 implementation date, there are a number of issues affecting Industry's ability to be ready to go-live by this date with an acceptable level of risk to the consumer. We are actively managing these issues through the new end-to-end programme assurance we have established.

We suggest that the CMA recommendation to us could similarly be focused on outcomes rather than on any specific date. We would therefore welcome a recommendation that Ofgem ensures Project Nexus is implemented in a timely fashion, safeguarding the interests of consumers.

Performance Assurance Framework

Ofgem is currently unable to raise modifications to the industry codes itself. Therefore, while we support the approach outlined in paragraph 5.181, including the development of a project plan and Ofgem allocating responsibility to Uniform Network Code (UNC) parties, we currently have no express power to ensure that this is acted upon by such parties.

This could be mitigated by a suitable licence condition to require UNC parties to facilitate the introduction of the performance assurance framework. We would welcome the CMA giving further consideration to introducing such a licence condition using its order-making powers. This would enable the remedy to be implemented more quickly and effectively, ensuring that it is fully effective within one year of your final report.

²

<http://www.gasgovernance.co.uk/sites/default/files/Ofgem%20Open%20Letter%20on%20Project%20Nexus%20and%20Ofgem%20sponsorship.pdf>

Annex 2: RMR AEC

Removing 'simpler choices' components of the RMR rules

In recommending this remedy, the CMA's aim is to promote competition and innovation between suppliers and to facilitate competition between price comparison websites (PCWs), thereby addressing the Retail Market Reform (RMR) Adverse Effect on Competition (AEC) and partly addressing the Domestic Weak Consumer Response AEC. We fully support this objective and welcome the recommendation to remove components of the RMR 'simpler choices' and replace them with a principle(s). This is aligned with our aim to rely more on principles and less on prescriptive rules to regulate the retail energy market.

As stated previously³, we expect the removal of aspects of the 'simpler choices' component of the RMR rules to result in suppliers introducing different and more complex tariff offerings. For example, we may see multi-tier tariffs being introduced alongside more complex bundles, discount and reward point offers. The information tools introduced to complement the 'simpler choices' rules were not designed to work with this additional level of complexity and will therefore have to be revisited as a matter of priority. We intend to consult on any necessary changes to the information tools as part of our broader consultation on removing the 'simpler choices' rules this summer.

We strongly agree with the CMA that consumers should be able to compare and make informed choices about which tariff is best suited to their needs. As part of our wider shift away from prescriptive rules in the retail energy supply market, we are currently considering how any new principle(s) might best achieve this goal. We are also considering how any such principle(s) might be fast-tracked in order to ensure there is sufficient consumer protection in place. We will talk to stakeholders and consult on these principles alongside our consultation on the proposed licence changes in the summer.

Removing the Whole of Market requirement in the Confidence Code

We plan to implement this remedy and consult on other consequential Confidence Code (Code) changes in parallel with the removal of RMR 'simpler rules'.

Removing the whole of market (WoM) requirement, would result in various changes to the Code; including the requirements on filtering and the inclusion of all tariffs, suppliers and payment types. Consequential changes to other associated documents would also be required and an alternative accreditation and auditing methodology would need to be developed.

We would also note that the possible emergence of exclusive deals between suppliers and PCWs may mean that the Citizens Advice domestic price comparison service would find it a challenge to provide details of all available tariffs. To assist Citizens Advice in providing full market coverage, the CMA may wish to consider whether Citizens Advice's powers would be sufficient and effective in supporting their role to display WoM information as some tariff types may not be displayed by accredited sites (eg PPM and other specialist tariffs).

³ Ofgem '[Responses to CMA Notice of Remedies](#)', August 2015.

We will consult on these changes and will include recommendations around changes to our processes. This consultation may include options around PCWs paying their own accreditation and ongoing audit costs.

Annex 3: Prepayment AEC & Domestic Weak Customer Response AEC

Randomised Controlled Trials (domestic and microbusiness)

We are very supportive of this remedy and agree that it will provide robust insight, ahead of implementation, into which information-based measures are most effective in prompting customer engagement. It will also provide an enduring framework for how evidence is used to inform policy development.

Domestic

We agree it is important that there is a means to formally compel suppliers to participate in an Ofgem-led programme of Randomised Controlled Trials (RCTs), and suggest a CMA order is the most efficient and effective way of achieving this. We sought to encourage suppliers to participate in trials voluntarily during the development of RMR, but ultimately this was unsuccessful, with one trial being launched and subsequently cancelled.

This remedy has a close interdependency with the proposed removal of the RMR 'simpler choices' tariff rules and any adjustments to the linked 'clearer information' rules.

As soon as possible after the CMA's final report is published, we would consider potential information-based measures to be trialled. This would draw on the CMA's final recommendations, engagement with suppliers and other stakeholders, the available evidence, and our own policy expertise. From here, we will decide - likely using an agreed set of criteria for transparency - which trials we will lead (with support from delivery partners) and which we would require suppliers to undertake independently working within supporting guidance.

Where it is appropriate for us to lead the trial we will seek to ensure successful delivery through a combination of increasing in-house capacity, working with key stakeholders and/or delivery partners (such as the Behavioural Insights Team, Citizens Advice, DECC and academics), and commissioning third parties as necessary.

Where it is appropriate for suppliers to lead trials they would be required to work within agreed guidelines, to ensure the trial is robust and the insights can be turned into policy action. We would also suggest they provide regular updates to the Ofgem-led programme, to ensure that we are aware of issues which may affect other trials, and to promote a culture of learning across trials.

We would express caution about the view expressed in your provisional decision that information based remedies can be delivered 'off system'. While no trial would require wholesale changes to a supplier's billing system (for instance), most remedies will need to work with real customer data in the context of normal billing cycles and systems.

Based on initial consideration, we think the timelines for implementation as set out in your provisional decision are achievable. Nevertheless, if some information based measures are designed to have an impact over an extended period (eg over more than one billing cycle) or at a particular time of year (eg during the autumn at a time when consumers are more likely to switch) then we may wish to allow some individual trials to operate outside of the current programme timelines.

Non-domestic

The CMA has provisionally decided not to place an order on non-domestic suppliers to participate in microbusiness RCTs. Although it places an additional burden on suppliers, we consider that a similar order is needed to make the microbusiness RCT remedy effective.

We agree with the CMA that RCTs are less well established as a testing tool for microbusinesses. We therefore propose to launch trials for microbusinesses after we are in a position to transfer learning from the domestic programme of RCTs. This will also allow us to take the effects of other microbusiness information remedies into account.

Our preparations would include research on appropriate target groups within the microbusiness sector. Such research may lead us to target certain RCTs at your more tightly defined Proposed Segment, rather than all microbusinesses. We would welcome recognition of this in the final report.

Giving price comparison websites access to ECOES/SCOGES

This remedy is consistent with the Target Operating Model that we have published for fast and reliable switching as part of our Switching Programme. This is a longer term piece of work that will involve a far-reaching overhaul of the switching processes and improvements to consumers' switching experience. As part of this work, we are considering how price comparison websites will access the data held on the future Centralised Registration System (which will replace ECOES and SCOGES).

In the short term, an industry group has been set up under the Master Registration Agreement (MRA) to look at third party intermediaries' access to ECOES. We understand that this group will address the CMA's remedy on the electricity side. Stakeholders from the gas industry, including Xoserve, have indicated that they will also attend this workgroup. We consider that there are benefits in coordination between gas and electricity to help address common issues and develop a consistent approach.

We strongly agree with the CMA's provisional decision to implement this remedy through an order. As noted above, Ofgem is unable to raise modifications to industry codes itself. There is also a risk that industry may not deliver the required changes without an order, given parties' limited incentives to deliver change (which you have provisionally identified as a general issue with the current system of industry code governance). To improve the prospect of timely implementation of this remedy we suggest the CMA specifies a timescale in its order.

The CMA has suggested that the remedy should be in place by the start of 2017. This is shortly after the final order has been published and the workgroup(s) will need to move quickly to meet this aspiration. To allow this timescale or any deadline specified in the order to be met, we suggest that the scope of the data that PCWs should be able to access is clarified in the final report.

The CMA proposes issuing an order to Gemserv and Xoserve. The rules for access to ECOES are described in the MRA. It may therefore be more effective to place an order for electricity on the MRA Executive Committee (MEC), or on a licensee (or group of licensees) that can propose the required changes to the MRA. For gas, an alternative suggestion would be to place the order on gas transporters rather than Xoserve. Xoserve, as the gas transporter agency, holds data on behalf of the gas transporters. The data held is governed under the Uniform Network Code (UNC). The release of data to parties is subject to the UNC and instruction from the Gas Transporters. Xoserve is not permitted to release data without appropriate permissions/approvals; these may require a modification to the UNC. Gas transporters, rather than Xoserve, are permitted to propose modifications to the UNC.

Database (domestic and microbusiness)

Ofgem will develop the database with input from the CMA, suppliers, the Information Commissioner's Office (ICO), Consumer Groups and other relevant stakeholders to ensure that its use, specification and underpinning guidance, business processes, legal agreements and enforcement mechanisms are appropriate and support effective implementation.

We estimate that costs of IT specification, development and testing could be above the upper end of the range suggested in your provisional decision. We anticipate additional costs in the development of the supporting business processes including the two-way secure transfer of personal data, guidance, legal agreements and other data governance arrangements. We plan to share estimates of a cost range with the CMA in time for the final report.

Data Protection/Privacy

We aim to work closely with the ICO and suppliers to ensure that the mechanisms and supporting communications to allow those disengaged domestic customers to 'opt-out' are simple, compliant with information law and not open to abuse.

We note that you do not propose 'opt-out' letters be sent to microbusiness consumers. We would ask the CMA to consider whether the data you propose including in the database is considered personal data (ie needing an 'opt-out') for certain microbusiness consumers, for example, sole proprietors. In the absence of a requirement on suppliers to send microbusiness consumers a letter, we ask that you include a method of allowing microbusiness consumers to opt-out of the database in your final recommendation.

Design considerations

We note that a similar remedy has been adopted in France in relation to *Engie* customers. We will undertake further research into this with the aim of identifying lessons for implementation. However, we would welcome any lessons taken from your research to date that could be usefully shared to allow greater understanding of how the French experience has informed the development of your proposed remedy.

Due to the range of design and consumer considerations, we would strongly suggest small scale pilot activities prior to full implementation of the database to test and refine approaches. Trialling would help us understand what approach to the database is most effective in terms of engaging consumers. We are developing our thinking and will share our views with the CMA ahead of your final report. Where possible, we will draw on existing consumer research into the role of targeted marketing in prompting market engagement to help support the development of the final design.

We also suggest that the CMA recommendation to us is future-proofed by incorporating flexibility to allow other parties (such as collective switch providers) to access the database and contact consumers. We envisage any extension of access to other parties would be conditional on us being satisfied that consumers' data will be appropriately protected.

It is proposed that the database is hosted on a cloud based platform. Other storage media may be appropriate for the sensitivity, volume and update rates of the data. We would propose that the final decision on the choice of data storage and/or hosting technology should rest with Ofgem and should be made once we have more clarity on the design.

Microbusiness customers

The CMA has proposed that the remedy apply to microbusinesses that have been on a default contract for more than three years. We agree that there are similarities between some microbusiness consumers and domestic consumers and, therefore, understand the rationale behind aligning the definition of 'Disengaged Consumer' between the two groups.

However, there are also key differences between them. For a typical microbusiness, three years without engagement is likely to mean an effective time of four years - one year on a fixed-term contract and three years on an auto-rollover or out-of-contract rate. Also, it should be noted that domestic consumers are enduring and may remain on evergreen contracts for many years (including through change of tenancy). A great proportion of microbusinesses on the other hand, do not endure. Only 48% of start-ups survive the first four years of business.⁴ For these reasons, we believe that a substantial number of additional disengaged microbusinesses would benefit from this remedy if it were broadened to include all microbusiness consumers who are on deemed or default contracts, or are out of contract.

Monitoring compliance & enforcement

We agree with the suggested approach that suppliers' access and use of the data would be subject to strict terms of use agreements and that access could be revoked should there be a breach of terms. We will monitor compliance closely and enforce the compliance through contractual conditions or licence changes. You may also wish to consider whether it would be appropriate to use your order-making powers to support the enforcement of such agreements, for example by putting in place licence conditions for suppliers.

Third party intermediaries

In relation to the regulation of third party intermediaries (TPIs) in the non-domestic sector, we welcome the CMA's comments that malpractice and mistrust should be monitored by Ofgem and addressed by a code of practice. We intend to implement a code of practice, which, under our current powers, would be voluntary. We will discuss with the CMA and Government the extent to which this action is likely to be effective.

Restricted meters

We welcome the detailed analysis that you have carried out to estimate the detriment experienced by customers on restricted meters. We also welcome the proposed set of remedies, aimed at improving both the switching options (through the single rate tariff order), and at improving the access to better information (through the greater involvement of Citizens Advice).

⁴ ONS (2014), Business Demography: 2014, <https://www.ons.gov.uk/businessindustryandtrade/business/activitysizeandlocation/bulletins/businessdemography/2014>

In order for these remedies to be effective, they will need to improve customers' understanding of their consumption profile and their complex heating, metering and tariff arrangements. This will allow them to make an informed choice about whether they are better-off with a time-of-use or a single-rate tariff solution, with their existing or a new supplier. The current level of information provided through bills and annual statements is generally insufficient to make this comparison. We suggest that the CMA includes an order for this information to be provided as part of the restricted meter remedies. We will be happy to collaborate with you to finalise the detailed aspects of this remedy.

Annex 4: Prepayment AEC

Transitional price cap for prepayment customers

We are committed to helping you in whatever way we can in order to maximise the transitional price cap's (the cap) effectiveness as you finalise the design of this remedy.

The cap is likely to result in a significant reduction in bills for many prepayment customers compared to existing levels. This will directly counteract some of the detriment created by the AECs that you identified. In our view, your provisional decision to limit the cap to a subset of all domestic customers and to set the level of the cap with respect to objective criteria specified in advance, should help to reduce the risk that suppliers' pricing incentives are unduly distorted by the cap. We also support your provisional decision to make this a transitional remedy.

Ofgem will have a key role in implementing the remedy via our responsibility for updating the level of the cap each year. We would highlight to you that it is particularly important to specify the timing of the updates in advance. These annual updates must reflect trends in underlying costs with as little lag as possible while giving enough time for the new cap to be calculated and for suppliers to update their systems. We recommend that the CMA also takes account of the procedure to be followed if the typical domestic consumption values are updated during the period until the end of 2020 when the cap is in force. The next review of these values is due in early 2017. An important consideration for us given this new role will be the wider information that we provide to stakeholders around trends in suppliers' costs, which we will consider as part of our ongoing review of the Supply Market Indicators (SMI).

We will also have an important role in monitoring compliance with the cap. To assist this role, we would like the CMA to include a provision in the licence condition that would assist us in collecting the information necessary for this task. For instance, this could be achieved by including a requirement for suppliers to provide information to the Authority in relation to matters that it reasonably considers are relevant to the licensee's compliance with the price cap. An equivalent provision is currently included for the Government Electricity Rebate (25D in the Standard Electricity Licence).

We note that your proposed price cap applies only to customers between the lower and upper quartile typical domestic consumption values. Limiting the scope of the cap in this way creates significant risks in terms of distorting incentives for how suppliers treat the significant proportion of customers that lie outside these bands (for example encouraging suppliers to increase rates for customers with low consumption, in order to recapture some of the lost revenues). Given this, in our view, some restrictions are also likely to be required on prices for those customers with consumption below the lower quartile, and those with consumption above the upper quartile.

The CMA faces a particularly challenging task in determining the methodology for calculating the cost indices used to update the level of the cap. We are conscious of the balance that you must find between a methodology that is transparent, objective, and possible to set out in advance, but that also provides a reliable guide to trends in suppliers' costs. One potential limitation of your proposed methodology is that network companies' allowed revenues will also cover charges to electricity generators and gas shippers, and for both domestic and non-domestic customers. Allowed revenues may therefore not provide a true guide to trends in domestic network charges to suppliers from one year to the next.

As part of assisting you with your work on this remedy, we will share what we have learned from running the SMI and through other work streams.

Annex 5: Microbusiness Weak Customer Response AEC

Price transparency remedy

We welcome the CMA's proposed remedy and agree that it should reduce barriers to microbusiness consumers engaging in the market. We also agree that it may help PCWs facilitate microbusiness switching and hence increase competition. We foresee this remedy, in conjunction with the removal of the 'whole of market' requirement, facilitating the entry of meta-search engines⁵ into the energy market. Providing suppliers with an option of disclosing their tariffs via a third party online platform instead of building their own comparison tool should also help to reduce the regulatory burden of this remedy.

There are a number of planned market initiatives which will affect this remedy. For instance, the introduction of smart meters and half-hourly settlement in profile classes 1-4 could lead to the introduction of complex tariffs which reward customers for shifting consumption away from peak periods. These smart meters would not qualify as simple meters. We urge you to consider whether limiting the remedy to 'Simple Meters'⁶ may curtail the effectiveness of the remedy in the future.

We note your intention to require suppliers to highlight what their cheapest tariff is. We have observed that, on particular occasions, evergreen tariffs have been the cheapest available. Therefore, we think you should consider including evergreen tariffs in the remedy to ensure that suppliers' cheapest tariff remains visible to consumers in all scenarios. We also note that the 'cheapest tariff' will vary by consumers' circumstances. Where suppliers choose to disclose via a third party online platforms, this would, in effect, require them to disclose all available tariffs with at least one platform.

⁵ Meta-search engines refer to websites that search both direct providers of products and PCWs to provide a view of all available offers in the market. They are common in the travel market. Momondo, Skyscanner, Kayak and TravelSupermarket are examples of meta-search engines. These search engines typically work by 'scraping' data from other websites and presenting links through to those websites in a format that allows consumers to easily compare offerings.

⁶ Meters with three registers or less.

Annex 6: Governance AEC

Transparent analysis of the impacts of policy and regulation

At the start of this year, we made changes to our internal structure and processes to best meet the current and future challenges of energy regulation. Improving the robustness and consistency of our analysis of the impacts of our interventions is at the heart of these changes. An expected outcome of this is a further increase in transparency of our analysis. Your proposed remedies build on our changes.

Recommendation to Ofgem that it publishes annually a state of the market report

We welcome your recommendations in this area, including the view that Ofgem is best placed to take on this task. As the CMA notes, we already publish regular analysis covering a wide range of different aspects of the energy market. For example, last year we published the Retail Energy Markets report and the Wholesale Energy Markets report. We already had plans to combine both reports. So, we welcome your recommendation to go beyond that and publish a more comprehensive report. We recognise the potential value in a holistic assessment of the impact of the regulatory framework on the GB energy markets, bringing together analysis of developments in affordability, security of supply, and emission reductions.

We would like to work with stakeholders, including the CMA, to identify the format, scope of information and depth of analysis that will bring most value at proportionate costs.

Recommendation on Ofgem's duty to comment on draft primary and secondary legislation relating to the GB energy markets regulatory framework

We value the purpose of this remedy - to empower Ofgem to comment where this seems appropriate, to ensure that the policy development process is transparent, and to safeguard independence. We recognise the value of making the offering of opinions a routine matter.

We, with the CMA, note the range of stakeholder views on the detail of this remedy. You rightly highlight the importance of making the remedy workable and proportionate, so that activity can be focused. Given the CMA's wider comments we expect, for example, that one focus for comment may be legislation that could have a direct impact on Ofgem's own areas of activity or require implementation by Ofgem.

As set out above, we would like to work with stakeholders, including the CMA, to further develop clear proposals on the detail of this remedy. This should build further clarity on how this remedy will operate in practice and the relationship with the annual state of the market report.

Create a new internal unit within Ofgem (eg an office of the chief economist)

Following our recent reorganisation, which took effect in January 2016, we set up a new division called Improving Regulation. This division is headed by Martin Crouch, our Chief Economist. One of the core objectives of this division is to help enhance Ofgem's analysis and decision-making across the organisation. This includes helping to improve the effectiveness and efficiency of interventions and providing a better understanding of our impact on consumers and businesses. We therefore consider we have already largely implemented your recommendation and will explore what more we can do to further align the objectives of the division with those recommended by the CMA.

Regime for financial reporting

Energy companies' financial information is an important component of our market monitoring. Tracking trends in revenues, costs and profits is fundamental to our ability to understand how well the market is working for consumers. We have an ongoing programme to improve the quality of financial reporting, and welcome the CMA's proposed changes to improve the transparency, comparability and relevance of the information that the energy companies publish. We note that this is a complex area, and we will work closely with you to ensure that the remedy is both effective and proportionate in meeting its aims.

Your proposals for how suppliers report their wholesale costs are particularly significant. As the CMA notes, evaluating the nature of the relationship between retail and wholesale energy prices is central to understanding the functioning of the retail energy markets. Assessing cost pass-through is challenging however, given the widespread price smoothing that takes place in the market, the difficulty of controlling for the impact of other elements of suppliers' costs on prices, and the challenges associated with estimating wholesale costs for vertically integrated businesses. Given this, we support your proposal to require energy companies to provide standardised information about their wholesale costs, which should increase transparency around the impact of long term hedging on suppliers' costs (and so prices).

In implementing the remedy, it will be important to avoid potential confusion associated with publishing information both on the costs suppliers would have incurred in the absence of long-term rolling hedging strategies and on their actual, realised costs. It will also be necessary to take into account the risk that providing greater transparency – particularly around suppliers' costs for individual product types – influences market dynamics in an unintended way. One option that might be considered in order to minimise these risks is whether some or all of the enhanced reporting on wholesale costs should be kept separate from the broader consolidated segmental statements – requiring suppliers to provide this information directly to Ofgem to publish in an aggregated or anonymised form, rather than in the public statements.

In considering changes to the financial reporting requirements, we are also conscious of the trade-off between making changes to improve the quality of financial reporting, and any associated losses in comparability over time. Given the difficulty of identifying relevant benchmarks, in our view it is particularly desirable to ensure that comparable information on historical margins is available where possible. The CMA may therefore wish to consider whether there are any steps that it might take to assist comparisons of margins and other financial variables over time. For example, you might consider providing the information you have collected on suppliers' profits, costs and revenues in the period 2008-2014 in a format that allows for future comparisons.

We would expect your proposals to require changes to both the supply licence and the Consolidated Segmental Statement (CSS) guidelines. Any changes to the reporting requirements will need to take into account the timing of each of the relevant energy firms' financial years in order to allow sufficient time to make the necessary changes. More generally, it will be important to consider any increases in regulatory burden that might be associated with the changes (for example, arising from a requirement for suppliers to report along market rather than business lines), and to ensure that this burden is properly taken into account in putting in place a set of updated reporting requirements that is both effective and proportionate. As with the other remedies, we look forward to working closely with you on how best to implement your recommendations in this area as you finalise the remedies package over the coming months.

Annex 7: Codes AEC

Code governance

Licensing code bodies and re-calibrating roles and responsibilities should allow consumer interests to be better protected by ensuring timely delivery of beneficial and strategic code change. We look forward to working with DECC and industry stakeholders to develop the necessary powers and licences in order to implement your recommendations in an expedient manner once the final decision is published.

In particular, we welcome your view that Ofgem's role within code modifications should be limited to setting strategic direction and working with industry through the proposed consultative board to develop strategic work plans. In our view, re-aligning the accountabilities of code administrators and delivery bodies towards Ofgem will provide the opportunity to ensure that they carry out their new role of stronger end-to-end project management and delivery of code modifications efficiently and effectively. The incentives and scope for competition that you have put forward should help to drive performance of these new licensed code bodies. Incentives and competition will provide opportunity for rewards for those that deliver against objectives while penalising poor performance.

Indeed, we consider your proposals for a competitive tendering regime to be an important element of the package. We note your initial view that licences should initially be provided to existing code bodies. We will carry out further analysis as part of the implementation phase to consider the transition. This includes the timing of, and approach to, tendering as well as the potential for a phased introduction of new arrangements. For example, we may want to prioritise introducing new arrangements for certain codes which we consider as priorities before considering how to expand these new arrangements more widely. As part of our implementation plan we propose to consider the approach to tendering and whether licences are initially handed to incumbent code bodies or whether some form of tendering is used to determine the initial holders of the relevant licences.